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 2 A Limited Liability Partnership  
 3 Including Professional Corporations  
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12 Attorneys for Plaintiff,  
 13 Innovative Beverage Concepts, Inc.

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 CLERK U.S. DISTRICT COURT  
 CENTRAL DIST. OF CALIF.  
 SANTA ANA

14 UNITED STATES DISTRICT COURT  
 15 CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

16 INNOVATIVE BEVERAGE  
 17 CONCEPTS, INC., a California  
 18 corporation;

19 Plaintiff,

20 v.

21 THE TEA LAB, LLC, a New York  
 22 limited liability company; JENNIE  
 23 RIPPS, an individual; and DOES 1-10  
 24 inclusive;

25 Defendants.

Case No. SACV12-02099 CJC (ANx)

**COMPLAINT FOR DAMAGES AND  
 INJUNCTIVE RELIEF FOR:**

- (1) **TRADEMARK INFRINGEMENT**  
[15 U.S.C. § 1114(1)];
- (2) **UNFAIR COMPETITION AND  
FALSE DESIGNATION OF  
ORIGIN** [15 U.S.C. § 1125(a),(b)];
- (3) **TRADEMARK DILUTION**  
[15 U.S.C. § 1125(c)];
- (4) **CYBERSQUATTING**  
[15 U.S.C. § 1125(d)];
- (5) **UNFAIR COMPETITION AND  
TRADEMARK INFRINGEMENT**  
[California Common Law];
- (6) **UNFAIR COMPETITION**  
[California Business &  
Professions Code §§ 17200 &  
17500 *et seq.*]; AND

**REQUEST FOR JURY TRIAL.**

1 Plaintiff Innovative Beverage Concepts, Inc. ("IBC") files this Complaint  
2 against Defendants The Tea Lab, LLC, Jennie Ripps, and Does 1-10 inclusive  
3 (collectively, "Defendants"), and alleges the following:

4  
5 **THE PARTIES**  
6

7 1. Plaintiff IBC is a California corporation having its principal place of  
8 business at 9600 Research Drive, Irvine, California 92618.

9 2. Upon information and belief, Defendant The Tea Lab, LLC ("The Tea  
10 Lab") is a New York limited liability company having its principal place of business  
11 at 124 East 36th Street, New York, New York, 10016 and regularly conducting  
12 business in this district.

13 3. Upon information and belief, Defendant Jennie Ripps ("Ripps") is an  
14 individual with a place of business at 124 East 36th Street, New York, New York,  
15 10016 and regularly conducting business in this district.

16 4. IBC is unaware at this time of the true names and capacities of  
17 Defendants sued herein as Does 1 through 10, inclusive, and therefore sues these  
18 Defendants by these fictitious names. IBC will seek leave of Court to amend this  
19 Complaint to allege their true names and capacities when the same have been  
20 ascertained or at the time of trial.

21 5. Upon information and belief, each of the Defendants was the agent,  
22 servant, or employee of each of the other Defendants, and in doing the things  
23 alleged herein, was acting in the course and scope of such agency, service and  
24 employment and with the permission and consent of his, her or its co-Defendants.  
25  
26  
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1                    **NATURE AND STATUTORY BASIS OF THE ACTION**

2

3            6.        This action seeks remedy for trademark infringement under the federal

4 Lanham Act, 15 U.S.C. Section 1114(1) (First Claim for Relief); unfair competition

5 and false designation of origin under the Lanham Act, 15 U.S.C. Sections 1125(a)

6 and (b) (Second Claim for Relief); trademark dilution under the Lanham Act, 15

7 U.S.C. Section 1125(c) (Third Claim for Relief); cybersquatting under the Lanham

8 Act, 15 U.S.C. Section 1125(d) (Fourth Claim for Relief); trademark infringement

9 under the common law of California (Fifth Claim for Relief); and unfair competition

10 and false designation of origin under the California Business and Professions Code

11 Sections 17200 and 17500 *et seq.* (Sixth Claim for Relief).

12

13                    **JURISDICTION AND VENUE**

14

15            7.        This Court has personal jurisdiction over The Tea Lab and Ripps

16 because, upon information and belief: (i) they do business and/or actively solicit

17 business in California; (ii) they have continuous and ongoing business contacts with

18 residents of California through, *inter alia*, the highly interactive

19 *www.thetealogist.com* website; (iii) they have intentionally engaged in acts

20 targeted at California that have caused harm within California, including harm to

21 IBC, which has its principal place of business in California; (iv) the confusion

22 resulting from their trademark infringement is most likely to impact California

23 consumers; and (v) they have purposely availed themselves of the privilege of

24 conducting business in California.

25            8.        The First, Second, Third and Fourth Claims for Relief arise under the

26 federal Lanham Act, 15 U.S.C. §§ 1051, *et seq.* This Court has original subject

27 matter jurisdiction over these Lanham Act claims under 15 U.S.C. § 1121 and 28

28 U.S.C. §§ 1331 and 1338.



14. IBC sells its **TEAOLOGY** brand of tea, tea mixes and tea-based beverages through a variety of marketing channels, including through its worldwide distributors, various trade publications, and on the Internet via its website at *www.teaology.com*.

15. Since its inception, the **TEAOLOGY** brand has commanded a substantial marketplace presence and has enjoyed sales in the millions of dollars.

#### **B. IBC's Valuable Intellectual Property**

16. As a company that depends upon both the quality of its products and the reliability of its brand, IBC has spent substantial sums securing and protecting its intellectual property interests.

17. IBC has obtained federal trademark registrations to protect the value of its famous **TEAOLOGY** brand in connection with tea, tea mixes and tea-based beverages. IBC owns at least the following U.S. federal trademark registrations duly registered with the United States Patent and Trademark Office ("USPTO") which are pertinent to this particular case (hereafter referred to as the "**TEAOLOGY** Mark"):

Mark	Reg. No.	Goods
<b>TEAOLOGY</b> <sup>®</sup>	2,650,419	Tea, flavored drink mixes, namely tea mixes.
<b>TEAOLOGY</b> <sup>®</sup>	3,631,790	Powdered drink mixes containing tea for use as meal replacements.

18. True and correct copies of each of the registrations set forth in the above paragraph are attached hereto as Exhibits A and B. IBC owns each of these registrations originally.

19. The USPTO has conferred incontestability status upon one of IBC's federal trademark registrations, namely Reg. No. 2,650,419.



1       20. IBC has extensively and continually advertised and promoted the  
2 **TEAOLOGY** brand since its first use in 2002. Over the years, IBC has expended  
3 substantial amounts of time, effort and money to ensure that the purchasing public  
4 associates the **TEAOLOGY** brand with IBC's products. As a result of this time,  
5 effort and financial investments, IBC and the **TEAOLOGY** Mark have achieved a  
6 reputation for excellence in the marketplace. IBC enjoys substantial demand and  
7 goodwill for its products bearing or marketed under the **TEAOLOGY** Mark.

8       21. The **TEAOLOGY** Mark is a strong mark when used in connection with  
9 tea, tea mixes and tea-based beverages. The **TEAOLOGY** Mark is inherently  
10 distinctive.

11       22. By virtue of the extensive scope of the consumer sales made and the  
12 substantial sums spent to promote the **TEAOLOGY** Mark, it has also acquired a  
13 strong secondary meaning in the minds of the relevant purchasing public.

14       23. The **TEAOLOGY** Mark uniquely distinguishes IBC products from  
15 products offered by others. IBC has built up incalculable goodwill and value in the  
16 **TEAOLOGY** Mark. The relevant purchasing public has come to exclusively  
17 associate the **TEAOLOGY** Mark with tea, tea mixes and tea-based beverages that  
18 originate from IBC.

19       24. The **TEAOLOGY** Mark is famous in connection with tea, tea mixes  
20 and tea-based beverages. The **TEAOLOGY** Mark has earned various awards,  
21 including finalist entries in the 2002 *International Food & Beverage Awards*, the  
22 2002 edition of *Applied Arts Magazine*, the 2003 edition of *New Logo World*, the  
23 2003 edition of *Step Inside Design's 100 Competition and Annual Magazine*, and  
24 the 2004 edition of *American Corporate Identity*. IBC's tea products have been  
25 featured in national publications such as *Fresh Cup Magazine*, *Specialty Coffee*  
26 *Retailer*, *Gourmet Retailer Magazine*, and *Hospitality News*. IBC's tea products  
27 also have a celebrity following and have been featured at celebrity poker  
28

1 tournaments, sporting events, a cancer benefit hosted by John Stamos, and Tori  
2 Spelling's wedding.

3 25. IBC has not licensed, authorized or otherwise consented to Defendants'  
4 use of the **TEAOLOGY** Mark.

5  
6 **C. Defendants' Unlawful Conduct**

7 26. Upon information and belief, Defendants are in the business of  
8 distributing, promoting and selling tea products to the consuming public.

9 27. Upon information and belief, Defendants are a competitor of IBC and  
10 sell competing tea and tea-related products under the mark **THE TEAOLOGIST®**  
11 (U.S. Reg. No. 4,118,490) (the "Infringing Mark").

12 28. Upon information and belief, Defendants' tea products compete in the  
13 marketplace with IBC's **TEAOLOGY** brand of tea, tea mixes and tea-based  
14 beverage products.

15 29. Upon information and belief, Defendants own and/or operate the  
16 *www.thetealogist.com* website (the "Infringing Domain Name").

17 30. Upon information and belief, Defendants sell their **THE**  
18 **TEAOLOGIST** tea products through a variety of marketing channels that overlap  
19 with IBC's marketing channels, including without limitation on the Internet via the  
20 Infringing Domain Name.

21 31. Upon information and belief, Defendants use the **TEAOLOGY** Mark  
22 to direct Internet traffic to the Infringing Domain Name by embedding the  
23 **TEAOLOGY** Mark in the Infringing Domain Name's metatags. Defendants' use of  
24 the **TEAOLOGY** Mark as a metatag increases the likelihood that consumers who  
25 use a search engine to find **TEAOLOGY** tea products will instead find Defendants'  
26 Infringing Domain Name.

32. Upon information and belief, Defendants are using the Infringing Mark and Infringing Domain Name with the intent to ride the coattails of IBC's well-known **TEAOLOGY** Mark.

33. Upon information and belief, as a result of Defendants' use of a similar mark on virtually identical and/or competing tea products, consumers who encounter **THE TEAOLOGIST** tea and related products are likely to be confused as to their source, or as to their connection or affiliation with IBC and its **TEAOLOGY** brand of tea, tea mixes and tea-based beverages.

### FIRST CLAIM FOR RELIEF

#### **Federal Trademark Infringement Against Defendants**

#### **[Section 32(1) Of The Lanham Act, 15 U.S.C. § 1114(1)]**

34. IBC realleges and incorporates herein by reference the allegations of the preceding paragraphs as though fully set forth herein.

35. Defendants have infringed the federally registered **TEAOLOGY** Mark by, among other things, promoting, distributing and selling **THE TEAOLOGIST** tea and related products in interstate commerce. IBC has not granted Defendants permission or authority to use the registered **TEAOLOGY** Mark.

36. Upon information and belief, Defendants' promotion, distribution and sale of **THE TEAOLOGIST** tea and related products has a substantial effect on interstate commerce, and has caused confusion and mistake, and is likely to continue to cause confusion and mistake, and to deceive the public into believing that **THE TEAOLOGIST** tea and related products originate with, or are associated with and/or authorized by, IBC.

37. Upon information and belief, Defendants have committed these acts of infringement with the intent to cause confusion and mistake and to deceive the



1 public into believing that **THE TEAOLOGIST** tea and related products originate  
2 with, or are associated with and/or authorized by, IBC.

3 38. Defendants' unlawful use of the Infringing Mark in interstate  
4 commerce constitutes trademark infringement in violation of Section 32(a) of the  
5 Lanham Act, 15 U.S.C. § 1114(1).

6 39. Upon information and belief, Defendants, by engaging in the conduct  
7 described herein, willfully intended to trade on the reputation of IBC and/or the  
8 **TEAOLOGY** Mark, and to cause injury to IBC.

9 40. As a direct and proximate result of Defendants' unlawful acts as set  
10 forth above, including the unauthorized use of the Infringing Mark, IBC has suffered  
11 and will continue to suffer injury to its business, goodwill and property.

12 41. IBC is entitled to recover from Defendants the damages it has sustained  
13 and will sustain as a result of Defendants' wrongful conduct as alleged herein. IBC  
14 is further entitled to recover from Defendants the gains, profits and advantages that  
15 Defendants have obtained as a result of the wrongful conduct alleged herein. IBC at  
16 present is unable to ascertain the full extent of its damages, or the gains, profits and  
17 advantages that Defendants have obtained by reason of their wrongful conduct  
18 described herein.

19 42. IBC has no adequate remedy at law. Unless Defendants are  
20 preliminarily and permanently enjoined from committing these unlawful acts as set  
21 forth above, including the unauthorized use of the Infringing Mark in commerce,  
22 IBC will continue to suffer irreparable harm.

23 43. Pursuant to 15 U.S.C. § 1116, IBC is entitled to an injunction  
24 restraining Defendants, their officers, agents and employees, and all persons acting  
25 in concert with them, from engaging in any further such acts of infringement in  
26 violation of the Lanham Act.

**SECOND CLAIM FOR RELIEF**

**Unfair Competition and False Designation of Origin Against Defendants**

**[Section 43(a) Of The Lanham Act, 15 U.S.C. § 1125(a), (b)]**

44. IBC realleges and incorporates herein by references the allegations of the preceding paragraphs as though fully set forth herein.

45. Defendants' use of the Infringing Mark causes or is likely to cause confusion, mistake and deception as to the affiliation, connection and association of Defendants with IBC and/or as to the origin, sponsorship and approval of the products sold under the Infringing Mark.

46. Defendants' use of the Infringing Mark causes or is likely to cause confusion, mistake and deception as to the nature, characteristics, origin and qualities of the goods sold under the Infringing Mark.

47. Defendants' acts have caused and, unless restrained by this Court, will continue to cause IBC and the public to suffer great and irreparable damage and injury through, *inter alia*, (a) likelihood of confusion, mistake and deception among the relevant purchasing public and trade as to the source of Defendants' goods; and (b) the loss of the valuable goodwill and business reputation symbolized by the Infringing Mark.

48. IBC is entitled to recover from Defendants the damages it has sustained and will sustain as a result of Defendants' wrongful conduct as alleged herein. IBC is further entitled to recover from Defendants the gains, profits and advantages that they have obtained as a result of such wrongful conduct. IBC at present is unable to ascertain the full extent of its damages, or the extent of the gains, profits and advantages that Defendants have obtained by reason of the wrongful conduct described herein.

49. IBC has no adequate remedy at law. Unless Defendants are preliminarily and permanently enjoined from committing these unlawful acts as set

1 forth above, including the unauthorized use of the Infringing Mark in commerce,  
2 IBC will continue to suffer irreparable harm.

3 50. Pursuant to 15 U.S.C. § 1116, IBC is entitled to an injunction  
4 restraining Defendants, their officers, agents and employees, and all persons acting  
5 in concert with them, from engaging in any further such acts of unfair competition  
6 and false designation or origin in violation of the Lanham Act.

7  
8 **THIRD CLAIM FOR RELIEF**

9 **Federal Trademark Dilution Against Defendants**

10 **[Section 43(c) Of The Lanham Act, 15 U.S.C. § 1125(c)]**

11  
12 51. IBC realleges and incorporates herein by reference the allegations of  
13 the preceding paragraphs as though fully set forth herein.

14 52. The **TEAOLOGY** Mark is a famous mark.

15 53. Defendants' commercial use of the Infringing Mark occurred at all  
16 times after the **TEAOLOGY** Mark had become famous.

17 54. Defendants' use of the Infringing Mark is likely to deprive IBC of the  
18 benefit of the goodwill attached to the **TEAOLOGY** Mark, to injure IBC's business  
19 reputation, and causes actual dilution of the distinctive quality of the **TEAOLOGY**  
20 Mark.

21 55. Defendants' use of the Infringing Mark violates the Federal Trademark  
22 Dilution Act, 15 U.S.C. § 1125(c).

23 56. Upon information and belief, Defendants, by engaging in conduct  
24 described herein, willfully intended to trade on IBC's business reputation and to  
25 cause dilution of the famous **TEAOLOGY** Mark.

26 57. As a direct and a proximate result of Defendants' unlawful acts as set  
27 forth above, including the unauthorized use of the Infringing Mark, IBC has suffered  
28

1 and will continue to suffer injury to its business, goodwill and property in an amount  
2 not presently known.

3 58. IBC is entitled to recover from Defendants the damages it has sustained  
4 and will sustain as a result of Defendants' wrongful conduct as alleged herein. IBC  
5 is further entitled to recover from Defendants the gains, profits and advantages that  
6 Defendants have obtained as a result of the wrongful conduct alleged herein. IBC at  
7 present is unable to ascertain the full extent of its damages, or the gains, profits and  
8 advantages that Defendants have obtained by reason of the wrongful conduct  
9 described herein.

10 59. IBC has no adequate remedy at law. Unless Defendants are  
11 preliminarily and permanently enjoined from committing these unlawful acts as set  
12 forth above, including the unauthorized use of the Infringing Mark in commerce,  
13 IBC will continue to suffer irreparable harm.

14 60. Pursuant to 15 U.S.C. § 1116, IBC is entitled to an injunction  
15 restraining Defendants, their officers, agents and employees, and all persons acting  
16 in concert with them, from engaging in any further such acts of dilution in violation  
17 of the Lanham Act.

18  
19 **FOURTH CLAIM FOR RELIEF**

20 **Cybersquatting Against Defendants**

21 **[Section 43 of the Lanham Act, 15 U.S.C. § 1125(d)]**

22  
23 61. IBC realleges and incorporates herein by reference the allegations of  
24 the preceding paragraphs as though fully set forth herein.

25 62. Defendants' acquisition and/or registration and use of the Infringing  
26 Domain Name constitutes a bad faith intent to profit from the **TEAOLOGY** Mark  
27 within the meaning of § 1125(d).  
28

63. IBC has no adequate remedy at law. Unless Defendants are preliminarily and permanently enjoined from committing these unlawful acts as set forth above, IBC will continue to suffer irreparable harm.

64. Defendants' infringement of IBC's rights is and has been willful.

65. IBC is entitled to the maximum statutory damages, pursuant to 15 U.S.C. § 1117(d), in the amount of \$100,000, for each act of Defendants' cybersquatting.

### FIFTH CLAIM FOR RELIEF

# Common Law Trademark Infringement and Unfair Competition Against Defendants [California Common Law]

66. IBC realleges and incorporates herein by reference the allegations of the preceding paragraphs as though fully set forth herein.

67. Defendants' actions alleged herein constitute infringement of IBC's common law rights in the **TEAOLOGY** Mark and common law unfair competition.

68. IBC has been and will continue to be irreparably harmed by Defendants' infringing acts and unless Defendants are restrained from continuing their infringing acts, the harm to IBC will continue.

69. Defendants' infringement of IBC's rights is and has been willful.

70. IBC has no adequate remedy at law for Defendants' wrongful acts.

71. IBC also seeks damages stemming from Defendants' willful conduct.



**SIXTH CLAIM FOR RELIEF**

**Unfair Competition and False Designation of Origin Against Defendants  
[California Business & Professions Code §§ 17200 & 17500]**

72. IBC realleges and incorporates herein by reference the allegations of the preceding paragraphs as though fully set forth herein.

73. Upon information and belief, the unlawful conduct of Defendants described herein has had a substantial effect on commerce, and constitutes unlawful, unfair and fraudulent business practices and unfair deceptive, untrue and misleading advertising in violation of Sections 17200 and 17500, *et seq.*, of the California Business and Professions Code.

74. Upon information and belief, Defendants willfully intended to trade on the strength, reputation and goodwill of the **TEAOLOGY** Mark and to cause injury to IBC.

75. As a direct and proximate result of Defendants' unlawful acts as described herein, IBC has suffered and will continue to suffer injury to its business, goodwill and property.

76. IBC has no adequate remedy at law. Unless Defendants are preliminarily and permanently enjoined from committing the unlawful acts described herein, IBC will continue to suffer irreparable harm. IBC is entitled, pursuant to California Business and Professions Code §§ 17203 and 17535, to an injunction restraining Defendants, their officers, agents and employees, and all persons acting in concert with them, from engaging in any further such acts of unfair competition and false designation of origin in violation of California Business and Professions Code as well as to restitution and disgorgement of Defendants' profits.

1 PRAYER FOR RELIEF

2  
3 WHEREFORE, plaintiff IBC prays for judgment against Defendants as  
4 follows:

5  
6 (1) That Defendants be held liable for infringement and dilution of  
7 the **TEAOLOGY** Mark, unfair competition, false designation of origin, and  
8 cybersquatting in violation of the Lanham Act, 15 U.S.C. § 1051 *et seq.*, California  
9 common law, and California Business & Professions Code §§ 17200 & 17500;

10  
11 (2) That Defendants, and their officers, employees, agents, servants,  
12 attorneys, and representatives, and all other persons, firms, or corporations in active  
13 concert or participation with them, be preliminarily and thereafter permanently  
14 enjoined and restrained, pursuant to the Court's inherent equitable powers and  
15 pursuant to 15 U.S.C. § 1116 from:

16  
17 (a) operating the website located at *www.theteaologist.com*, or  
18 any colorable imitation thereof, or any domain name that is likely to confuse,  
19 mislead, or deceive purchasers, IBC's customers, or members of the public that  
20 goods manufactured, distributed, advertised, sold and/or offered for sale on that  
21 website originate from IBC, or that such goods have been sponsored, approved, or  
22 licensed by or associated with IBC or are in some way connected or affiliated with  
23 IBC;

24  
25 (b) promoting, distributing, or selling any products under the  
26 **THE TEAOLOGIST** trademark or any colorable imitation thereof, or any other  
27 phrase, term, or logo that is likely to cause confusion with IBC or its **TEAOLOGY**  
28 Mark;

1 (c) using in commerce, or facilitating the use in commerce of the  
2 **THE TEAOLOGIST** trademark or any other phrase, term, mark, trade name, logo  
3 or design that falsely represents that, or is likely to confuse, mislead, or deceive  
4 purchasers, IBC's customers, or members of the public that goods manufactured,  
5 distributed, advertised, sold and/or offered for sale by Defendants originate from  
6 IBC, or that such goods have been sponsored, approved, or licensed by or associated  
7 with IBC or are in some way connected or affiliated with IBC;

8  
9 (d) doing or allowing any act or thing which is likely to dilute  
10 the distinctive quality of the **TEAOLGY** Mark, or to otherwise injure IBC's  
11 business reputation or goodwill;

12  
13 (e) engaging in any acts of federal, state, or common law  
14 trademark infringement, trademark dilution, false designation of origin, or unfair  
15 competition that would damage or injure IBC; and

16  
17 (f) participating or assisting in any of the above activities.

18  
19 (3) That Defendants and their officers, employees, agents, servants,  
20 attorneys, and representatives, and all other persons, firms, or corporations in active  
21 concert or participation with them be required to expressly abandon the federal  
22 registration for the Infringing Mark;

23  
24 (4) That Defendants and their officers, employees, agents, servants,  
25 attorneys, and representatives, and all other persons, firms, or corporations in active  
26 concert or participation with them be required to transfer to IBC the registration for  
27 the domain name *www.theteaologist.com*;

1           (5) That Defendants, pursuant to 15 U.S.C. § 1116(a), be required to  
2 file with the Court and to serve on IBC within thirty (30) days after service of an  
3 injunction order as requested herein, a report in writing under oath setting forth in  
4 detail the manner and form in which they have complied with the Court's order;

5  
6           (6) That an accounting be ordered of all of the profits realized by  
7 Defendants, or others acting in concert or participation with them, from Defendants'  
8 unauthorized use, infringement, and dilution of the **TEAOLOGY** Mark;

9  
10          (6) That Defendants be required to account for and pay to IBC all  
11 gains, profits, and advantages derived from their acts of infringement and other  
12 unlawful conduct, as alleged herein;

13  
14          (7) That all gains, profits, and advantages derived by Defendants  
15 from their acts of infringement and other unlawful conduct alleged herein be  
16 deemed to be in constructive trust for the benefit of IBC.

17  
18          (8) That judgment be entered against Defendants for IBC's actual  
19 damages as a result of Defendants' acts of infringement and other unlawful conduct  
20 alleged herein, and for any additional profits attributable to Defendants' wrongful  
21 conduct, according to proof;

22  
23          (9) That Defendants' unlawful conduct as alleged herein be deemed  
24 a willful violation of IBC's intellectual property rights;

25  
26          (10) That the Court declare this an exceptional case;

1           (11) That IBC's actual damages be trebled pursuant to 15 U.S.C.  
2 § 1117(a);

3  
4           (12) That IBC be awarded maximum statutory damages for violations  
5 of the Anti-Cybersquatting provisions of the Lanham Act in an amount not less than  
6 \$100,000 for each act of cybersquatting pursuant to 15 U.S.C. § 1117(d);

7  
8           (13) That IBC recover its reasonable attorneys' fees pursuant to 15  
9 U.S.C. § 1117(a);

10  
11           (14) That IBC be awarded punitive and exemplary damages pursuant  
12 to California common law;

13  
14           (15) That IBC recover the costs of this suit;

15  
16           (16) That IBC be granted pre-judgment and post-judgment interest on  
17 the damages caused by Defendants; and

18  
19           (17) That IBC be granted such other and further relief as the Court  
20 deems just and proper.



1 Dated: December 4, 2012

2 SHEPPARD, MULLIN, RICHTER &  
3 HAMPTON LLP

4  
5 By



6 CARLO F. VAN DEN BOSCH

7 Attorneys for Innovative Beverage Concepts,  
8 Inc.  
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**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff IBC hereby demands a jury trial on all issues triable as of right to a jury.

Dated: December 4, 2012

SHEPPARD, MULLIN, RICHTER &  
HAMPTON LLP

By

  
CARLO F. VAN DEN BOSCH

Attorneys for Innovative Beverage Concepts,  
Inc.

**Exhibit A**

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,650,419

United States Patent and Trademark Office

Registered Nov. 12, 2002

Amended

OG Date Apr. 11, 2006

TRADEMARK  
PRINCIPAL REGISTER

TEAOLOGY

INNOVATIVE BEVERAGE CONCEPTS,  
INC. (CALIFORNIA CORPORATION)  
27111 ALISO CREEK ROAD  
SUITE 175  
ALISO VIEJO, CA 92656

FOR: TEA, [ CHAI TEA, ] FLAVORED  
DRINK MIXES, NAMELY TEA MIXES, [  
CHAI MIXES, AND COCOA MIXES ], IN  
CLASS 30 (U.S. CL. 46).  
FIRST USE 1-23-2002; IN COMMERCE  
1-23-2002.  
SER. NO. 76-204,553, FILED 2-5-2001.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Apr. 11, 2006.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

**Exhibit B**



Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

**United States Patent and Trademark Office**

**Reg. No. 3,631,790**

Registered June 2, 2009

**TRADEMARK  
PRINCIPAL REGISTER**

**TEAOLOGY**

INNOVATIVE BEVERAGE CONCEPTS, INC. (CA-  
LIFORNIA CORPORATION)  
27111 ALISO CREEK ROAD, SUITE 175  
ALISO VIEJO, CA 92656

FIRST USE 11-1-2005; IN COMMERCE 11-1-2005.

SN 76-584,060, FILED 3-30-2004.

FOR: POWDERED DRINK MIXES CONTAINING  
TEA FOR USE AS MEAL REPLACEMENTS, IN  
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

BERYL GARDNER, EXAMINING ATTORNEY

CARLO F. VAN DEN BOSCH, C ' Bar No. 185207  
 MICHELLE L. WISNIEWSKI, Cal. Bar No. 234032  
 SHEPPARD, MULLIN, RICHTER & HAMPTON  
 650 Town Center Drive, 4th Floor  
 Costa Mesa, California 92626-1993  
 Telephone: 714.513.5100  
 Facsimile: 714.513.5130

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

INNOVATIVE BEVERAGE CONCEPTS, INC., a  
 California corporation;

PLAINTIFF(S)

v.

THE TEA LAB, LLC, a New York limited liability  
 company; JENNIE RIPPS, an individual; and DOES 1-  
 10 inclusive;

DEFENDANT(S).

CASE NUMBER

**SACV12-02099 CJC (ANx)**

**SUMMONS**

TO: DEFENDANT(S):

A lawsuit has been filed against you.

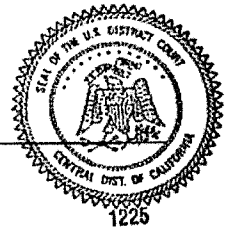
Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Carlo F. Van den Bosch, whose address is Sheppard Mullin, Richter & Hampton, LLP, 650 Town Center Drive, 4th Floor, Costa Mesa, California, 92626. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 12-4-12

By: Lori Wagers

Deputy Clerk  
**LORI WAGERS**  
 (Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) INNOVATIVE BEVERAGE CONCEPTS, INC., a California corporation	<b>DEFENDANTS</b> THE TEA LAB, LLC, a New York limited liability company; JENNIE RIPPS, an individual; and DOES 1-10 inclusive
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) CARLO F. VAN DEN BOSCH, Cal. Bar No. 185207 MICHELLE LAVOIE WISNIEWSKI, Cal. Bar No. 234032 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP 650 Town Center Drive, 4th Floor, Costa Mesa, CA 92626 Telephone: 714.513.5100	Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)  <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:33%;">PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:33%;">PTF DEF <input checked="" type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF DEF <input checked="" type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
Citizen of This State	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF DEF <input checked="" type="checkbox"/> 4 <input type="checkbox"/> 4										
Citizen of Another State	<input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5										
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6										

**IV. ORIGIN** (Place an X in one box only.)  
☒ 1 Original Proceeding     ☐ 2 Removed from State Court     ☐ 3 Remanded from Appellate Court     ☐ 4 Reinstated or Reopened     ☐ 5 Transferred from another district (specify):     ☐ 6 Multi-District Litigation     ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)  
**CLASS ACTION** under F.R.C.P. 23: ☐ Yes ☐ No     ☒ **MONEY DEMANDED IN COMPLAINT:** \$ To Proof

**VI. CAUSE OF ACTION** (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 Trademark infringement, cybersquatting, dilution and unfair competition under the federal Lanham Act and California state law.

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 61 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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**SACV12-02099 CJC (ANx)**

**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.



UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEETVIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

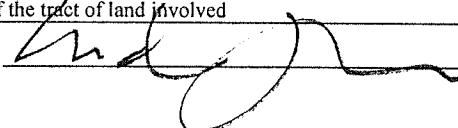
County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Tea Lab - New York Jennie Ripps - New York

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date December 4, 2012

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))